

***United States Court of Appeals
for the Second Circuit***



APPELLEE'S BRIEF

74-2382

ORIGINAL

To be argued by:
JOSEPH P. ALTIER

United States Court of Appeals

FOR THE SECOND CIRCUIT

JAMES M. MORRISSEY, JOSEPH PADILLA, RALPH
IBRAHIM, individually and on behalf of the members
of the National Maritime Union of America,

Plaintiffs-Appellees-Appellants,

—against—

JOSEPH CURRAN, SHANNON WALL, WILLIAM
PERRY, ABRAHAM E. FREEDMAN, MARTIN
SEGAL and LEON KARCHMER,

Defendants-Appellants-Appellees.

On Appeal from the United States District
Court for the Southern District of New York

BRIEF OF DEFENDANTS-APPELLEES JOSEPH CURRAN AND SHANNON WALL

BROMSEN, GAMMERMAN, ALTIER & WAYNE
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UNITED STATES COURT OF APPEALS
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RALPH IBRAHIM, individually and on
behalf of the members of the National
Maritime Union of America,

Plaintiffs-Appellees-Appellants,
-against-

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and LEON KARCHMER,

Defendants-Appellants-Appellees
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PRELIMINARY STATEMENT

These are appeals and cross-appeals from the
decisions of Hon. Dudley B. Bonsal.

ISSUE PRESENTED

Did the District Court properly determine that
defendants Curran and Wall were not in contempt of its order
regarding payment of attorneys' fees?

ARGUMENT

POINT I

THE DISTRICT COURT WAS CORRECT IN
REFUSING TO HOLD DEFENDANTS CURRAN
AND WALL IN CONTEMPT OF ITS ORDER
CONCERNING PAYMENT OF ATTORNEY'S FEES

The record below is barren of any facts substantiating payment to lawyers for defendants Curran and Wall in disobedience to the order of Judge Bonsal (61a)*. In the absence of any specific evidence of improper or illegal payment, Judge Bonsal correctly found defendants Curran and Wall not to be in contempt (80a). In their brief on appeal, plaintiffs raise no further specifics on this theory of contempt.

The order of Judge Bonsal enjoined payment of counsel fees from union funds during the pendency of the litigation (61a). Curran and Wall, officers of the union, have now successfully defended below and on all appeals, charges of wrongdoing and negligence concerning the union funds. Thus, in any event, at the conclusion of the litigation Curran and Wall would be entitled to payment by the union of their legal fees for the successful defense of their actions as union officials. HOLDEMAN v. SHELDON, 311 F. 2d 2 (2d Cir. 1962).

* References are to pages in the Joint Appendix

CONCLUSION

Judgment of the District Court finding defendants
Curran and Wall free of contempt ought be affirmed.

Respectfully submitted,

BROMSEN, GAMMERMAN, ALTIER & WAYNE
Attorneys for Defendants
Curran and Wall

Of Counsel:
Joseph P. Altier



STATES
UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

MORRISSEY

V.

CURRAN

AFFIDAVIT
OF SERVICE

STATE OF NEW YORK,
COUNTY OF New York, ss:
Edward Mecner

being duly sworn,

deposes and says that he is over the age of 21 years and resides at 668 10th St
N.Y., N.Y.

That on the 27th day of March 19 74at
he served the annexed brief of Defendants appellees Curran & Wall upon
in this action, by delivering to and leaving with said Herman E. Cooper, 500 5th Ave, N.Y.,
three true cop thereof.

DEPONENT FURTHER SAYS, that he knew the person so served as aforesaid to be the
person mentioned and described in the said

Deponent is not a party to the action.

Sworn to before me, this 27th
day of March 1975 }

Edward Mecner

Roland W. Johnson
ROLAND W. JOHNSON
Notary Public, State of New York
No. 4809705
Qualified in Delaware County
Commission Expires March 30, 1975